



U.S. Department of Justice

*United States Attorney
Southern District of New York*

*The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007*

May 28, 2024

BY ECF

Honorable Paul A. Engelmayer
United States District Judge
Southern District of New York
40 Foley Square
New York, NY 10007

Re: *United States v. Omar Khan*, S1 20 Cr. 117 (PAE)

Dear Judge Engelmayer:

The Government respectfully writes in response to the defendant's May 21, 2024 letter (Dkt. 27) seeking an order directing the United States Marshals Service (the "USMS") "to make arrangements with [the rehabilitation facility] to allow Mr. Khan to be unchained and out of his bed at least one hour per day (including weekends) so that he can perform—even from his own room—exercise activities provided to him from the physical therapist."

Based on conversations with a staff member at the rehabilitation center where the defendant is being treated (the "Rehabilitation Center")—a private rehabilitation center and nursing home in Queens—the Government understands that the defendant is offered daily physical therapy sessions on weekdays. The Rehabilitation Center does not currently have staffing for physical therapy on weekends but is exploring options.

The Clinical Director at the MDC has informed the Government that the level of physical therapy being offered to the defendant is within the standard of care, and more than five sessions per week would be beyond medical community norms. In addition to relying on his own experience, the MDC Clinical Director consulted with a rehabilitation physician and specialist who advised, in substance and in part, that it is standard for a rehabilitation center to provide five physical therapy sessions per week.¹

The Government further understands, based on conversations with a staff member at the Rehabilitation Center, that the defendant's physical therapists have instructed the defendant on self-directed exercises. The Rehabilitation Center has informed the Government that the defendant can perform the self-directed exercises while secured in his room. The defendant's restraints do

¹ The MDC Clinical Director has contacted the neurosurgeon who examined the defendant and recommended daily physical therapy. The MDC is awaiting a response.

not immobilize him. According to the Rehabilitation Center, the defendant should be able to perform the self-directed exercises and move freely from his bed to his wheelchair.

A representative of the USMS has informed the Government that, per USMS standard practice and policy for inmates housed in non-custodial facilities, such as the Rehabilitation Center, the defendant must be secured while he is in his room. Based on the facts outlined above, the USMS oppose the defendant's request.

The Government appreciates that the defendant may prefer to be unsecured. But the defendant has not articulated facts that would justify the relief he seeks. For the foregoing reasons, the Government opposes the defendant's request.

Very truly yours,
DAMIAN WILLIAMS
United States Attorney

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